

**Hearst Ranch Conservation Transaction****EAST SIDE CONSERVATION EASEMENT*****Overview of Proposed Key Terms******prepared by Wildlife Conservation Board staff******July 12, 2004***

East of Highway One, the Hearst Ranch includes approximately 80,000 acres of grasslands, woodlands and forests, rising from sea level to the Santa Lucia Mountains (the "East Side"). As part of the proposed conservation transaction, a conservation easement would be placed over the East Side to permanently protect its natural resources and scenic values by limiting future development while providing for the continuing viability of ranching operations (the "East Side Easement"). Vistas from Highway One and from the Hearst-San Simeon State Historical Monument ("Hearst Castle") would be protected in perpetuity.

The East Side Easement would be purchased as part of the overall conservation transaction for the Hearst Ranch, for a total cost of \$80 million plus \$15 million in tax credits, should the Natural Heritage Tax Credit Act be reinstated. This price is significantly below fair market value of the property interests proposed for acquisition, as determined by an independent appraiser hired by the State. (*For details, see the review appraisal report also posted on this website.*) Public funds for the purchase of the East Side Easement would be provided through the Wildlife Conservation Board and the State Coastal Conservancy. (Funds for a scenic easement over the remainder of the Hearst Ranch, on the west side of Highway One, would come from Caltrans.)

The American Land Conservancy ("ALC") would acquire the East Side Easement and transfer it at closing to the California Rangeland Trust ("CRT"), an agricultural land trust. Through a Grant Agreement between the State and the easement holder, the State of California would have on-going rights to ensure that the public investment is protected and the East Side Easement is enforced.

The complete text of the draft East Side Easement, with exhibits, is posted separately on this website, as is the draft Grant Agreement, also with exhibits.

**SUMMARY OF EAST SIDE EASEMENT TERMS**

**Easement Holder:** As the proposed easement holder, CRT would be responsible to monitor and enforce the East Side Easement terms. CRT would be subject to a Grant Agreement with the State, governing the use of the public funds investment, and giving the State rights to ensure that CRT properly monitors and enforces the East Side Easement. Monitoring would be conducted at least annually in accordance with a monitoring protocol tailored to the East Side Easement. The monitoring protocol would be subject to review and approval by the State as a condition of funding its grant.

In addition to rights of entry for monitoring, the East Side Easement would allow access for independent audits of CRT's monitoring and enforcement, consistent with CRT's Audit Policy and Procedures (*a copy of which is Exhibit I to the draft East Side Easement posted on this website*). Under the Audit Policy, review of monitoring activities and on the ground validation of monitoring would be conducted no less than every five years by professionals (e.g., Certified Range Manager, biologist, botanist, ecologist) selected by an Audit Committee comprised of a CRT Director, State of California Resources Secretary (or designee), Certified Range Manager chosen by the President of the Cal-Pacific section of the Society for Range Management, and the landowner. The Audit Committee, by consensus, could inspect the property to validate the monitoring data and to assess the conditions of the conservation values being protected under the conservation easement project.

The State would have indirect enforcement rights through the Wildlife Conservation Board's Grant Agreement with the easement holder. (*As noted above, a copy of the draft Grant Agreement is posted on this website.*) In the event assignment of the East Side Easement is required for any reason, including a default under the Grant Agreement, the landowner would have 180 days to select an assignee consistent with qualification criteria established in the East Side Easement. If an assignee has not been identified within 180 days or the landowner has not petitioned a court to transfer the East Side Easement to a qualified easement holder, the Wildlife Conservation Board (WCB) could petition a court to transfer the East Side Easement to a qualified easement holder or, if no qualified easement holder is identified, to WCB.

**Easement Area:** The property east of Highway One that would be covered by the East Side Easement comprises approximately 80,000 acres. Maps of the easement area are posted on this website.

One 800-acre portion of the East Side, known as the Junge Ranch, may be acquired at a later date, due to the landowner's desire to apply for a tax credit under the Natural Heritage Preservation Tax Credit Act of 2000 and apply any allowable credit to this portion of the East Side. The Tax Credit program has been suspended since 2002, therefore, the Junge Ranch may be separated from the overall transaction, pending resolution of several legislative proposals to reinstate and fund the Tax Credit program.

Hearst will be conveying a two-acre portion of the East Side to the State Department of Parks and Recreation ("State Parks") for expansion of the State Parks administrative area around the Hearst Castle Visitors Center, pursuant to a separate agreement between Hearst and State Parks. Pending the selection of the specific area to be conveyed, a five-acre envelope adjacent to the Visitors Center will be temporarily excluded from the East Side Easement. That envelope will be subject to restrictions per a separate agreement among Hearst, the State and ALC.

Two additional portions of the East Side may also need to be separately addressed. One 160-acre area, which Hearst acquired from The Nature Conservancy (TNC), is

subject to TNC's right to re-enter and terminate the landowner's interest in the property if the landowner cuts down or destroys any of the Ponderosa Pine forest. A separate 145-acre area is subject to an unrecorded mining claim referred to as the Polar Star mining claim. The landowner is taking legal steps to clear the title effects of the unrecorded mining claim. If necessary, one or both of these areas may be separated from the overall transaction pending resolution of the potentially conflicting interests.

**Protection of Resources:** The East Side Easement would protect defined Conservation Values that include:

- Productive rangeland, comprised of a variety of native perennial grasslands and coastal prairie.
- More than 1,000 plant and wildlife species, including some State and federal-listed rare, threatened and endangered species, and some species that are found only on the East Side.
- Diverse habitats including coastal creeks, streams, springs, wetlands, stock ponds, perennial grasslands, serpentine outcroppings and soils, maritime chaparral mosaics, coastal prairie, coastal bluff scrub, oak woodlands, oak savannas, riparian woodlands, sycamore woodlands and mixed and multiple species of evergreen forest.
- Cultural and agricultural resources, coastal and interior habitats, and native plant and wildlife species, maintained in a large, contiguous and principally undeveloped landscape providing wildlife connections with other large natural open areas, including Los Padres National Forest, Fort Hunter Liggett, and Camp Roberts.
- Seven major watersheds including San Carpoforo, Arroyo de la Cruz, Oak Knoll/Arroyo Laguna, Little Pico Creek, Pico Creek, Nacimiento, and the Little Burnett Creek/Tobacco Creek.
- Scenic mountain and ranchland vistas, which are viewed by millions of people driving on State Highway One, a federally designated All-American Road, and by visitors to the Hearst Castle.

*(For details, see the draft East Side Easement and the Conservation Easement Area Summary of Resources, each posted on this website.)*

**Baseline Conditions Report:** As a condition of State funding, CRT and ALC would be required to prepare a baseline conditions report to catalogue the current conditions that exist on the East Side, its uses and improvements, existing development and agricultural and natural resources. This report would be used to evaluate changes in resource conditions and compliance with the East Side Easement terms. The baseline conditions report would be developed by environmental resource professionals and certified rangeland managers, and would include reports, maps, photographs, and digitized aerial photography. The baseline conditions report would be subject to review and approval by the State as a condition of funding its grant.

**Monitoring and Enforcement of Conservation Easement Terms:** CRT would monitor the East Side Easement on an annual basis to ensure that the landowner is

complying with its terms, consistent with CRT's monitoring protocol. Additional monitoring would take place in connection with uses or activities subject to review by the easement holder or any violation of the East Side Easement. The State would ensure that the East Side Easement is properly monitored and enforced through its Grant Agreement with the easement holder (as discussed above), and through its position on the CRT Audit Committee.

**Public Access:** No public access to the East Side would be granted by the East Side Easement. However, the landowner would allow limited access to the East Side for four special, non-profit events per year, and is working with State Parks to allow it to offer occasional special events at the pergola area around Hearst Castle.

**Retained Development Rights for Agriculture and Private Use:** Under the East Side Easement, the landowner would retain land use rights authorized by current coastal agriculture zoning except as otherwise stated. Other limited uses specified in the East Side Easement would be permitted only within the 1,500 acre "Headquarters" and the 100 acre "Pico Area" parcels. (*These areas are shown on Exhibits D-2 and D-3 to the draft East Side Easement posted on this website.*) The East Side Easement would allow existing homes, non-residential structures and other ranch facilities such as the Dairy Barn, Bunkhouse, Ranch House, and Aircraft Runway and Associated Structures to be maintained, enlarged, repaired and replaced. In addition, the East Side Easement would allow for the development of up to 15 new Hearst Ranch employee homes (5 of which would be to replace existing employee homes at Old San Simeon Village; so the net potential increase over the total number of existing Hearst Ranch employee homes would be 10) and other facilities to support the permitted uses or activities on the East Side. The East Side Easement would contain restrictions on the location of new employee homes, along with viewshed protection requirements, and the restriction that a new employee housing unit can only be occupied by a bona fide employee of an East Side management entity or of an owner or lessee of an owner homesite large parcel and the employee's family. Support utility facilities, as well as any additional employee housing units required as a condition of approval of the Old San Simeon Village development (*as described in the "West Side summary" posted on this website*), would also be permitted. All uses and activities would be subject to the requirements of the East Side Easement, including the prohibition against impairment of the defined Conservation Values. In addition, nothing in the East Side Easement would relieve the landowner of any legal obligation or restriction in relation to the development or use of the East Side.

**Reserved Rights for New Homesites:** Hearst would also reserve the right to seek land use entitlements for 27 new owner homesites. The East Side Easement would restrict the locations of the new homesites to protect natural and scenic resources. Restrictions would include:

- Building envelope maximum of five acres for one single family residence and accessory structures and facilities, with private agricultural and recreational uses and facilities allowed on a 20-acre surrounding "homesite buffer area;" and

- Siting criteria that require homesites to be located outside of public views from Hearst Castle and Highway One, in close proximity to existing or historically used Hearst Ranch roads, and outside of sensitive resource areas.

**Subdivision:** The 271 existing legal parcels that make up the Hearst Ranch would be extinguished on an 8-to-1 basis for each owner homesite and on a 13-to-1 basis for the Headquarters and Pico Area parcels. If, after good faith efforts, regulatory approval for two or more clustered owner homesites within a cluster area is denied, unreasonably delayed or unreasonably conditioned, the landowner would instead have the right to create a fallback owner homesite parcel. The result in either case would be up to 27 new homesite parcels (25 clustered or fallback owner homesite parcels and 2 owner homesite large parcels), two additional parcels in developed areas of the Hearst Ranch (Headquarters and Pico Area parcels), one parcel for employee housing at the Junge Ranch, in connection with the proposed Old San Simeon Village development project, and one parcel for the Highway One realignment area (discussed below). A total of 31 parcels would be allowed on the entire 80,000 acre East Side.

**Continued Agricultural Use:** Grazing and agricultural uses would be allowed to continue, and some intensification of current agricultural uses would be permitted, pursuant the East Side Easement and a Management Plan. The Management Plan would provide for a common management program for the entire East Side, including the owner homesites, and address appropriate practices for soil and water conservation, erosion control, pest management, nutrient management, water quality and habitat protection on the portions of the Hearst Ranch used as range, cropland or other agricultural operations. The Management Plan would address woodland resource management, and include special restrictions on tree cutting (in addition to those in the East Side Easement). At no time could there be more than three entities responsible to implement the common management program for the entire 80,000 acre East Side.

**Agricultural Intensification:** Hearst would retain the right to cultivate 3,000 acres in total on the East Side and other areas of the Hearst Ranch, including up to 300 acres of vineyards and 300 acres of orchards. Vineyards and orchards could not be visible from Highway One. Agricultural intensification (with the exceptions of irrigated pastures or dry farming) would not be allowed, however, in two areas: from Pico Cove to Broken Bridge Creek, and from Adobe Creek to Arroyo de Corral, if visible from Highway One.

**Water Rights:** The restriction against impairing the defined Conservation Values of the East Side would apply to the landowner's ability to use or transfer water. Any transfer of water for use outside the Hearst Ranch would be specifically subject to the easement holder's determination that that the transfer will not impair Conservation Values, particularly fish and wildlife, either at the time of transfer or following the exercise of other retained rights. The landowner's use or transfer of water would also be subject to applicable regulatory approval processes, with the additional requirements that the landowner notify the easement holder of any application for regulatory approval to transfer water and that the transfer be limited by and subject to the terms of the East

Side Easement. The East Side Easement would require that any use of groundwater on the East Side be consistent with water uses and water quality required so as not to impair Conservation Values, and that groundwater well pumping in and adjacent to the East Side be subject to a monitoring plan that protects against impairment of Conservation Values.

**Mining Rights:** Retained rights for surface and subsurface mining would be restricted to 5 acres of oil and natural gas, and 5 acres of other minerals (excluding activities initiated before the East Side Easement is recorded and documented in the baseline conditions report), and would be subject to the permission of the easement holder. In addition, the scope and locations of mining endeavors would be limited by the resource-protection terms of the East Side Easement.

**Highway One Realignment Area:** The East Side Easement would allow realignment of Highway One inland of the existing alignment. The overall conservation transaction provides for transfer of ownership to Caltrans of 518 acres of property subject to the East Side Easement for future realignment needs. *(For details, see separate Summary of Realignment Area Transaction posted on this website.)*